

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JEFFREY L. FULLAM,

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Plaintiff,

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V.

1:21-CV-384-RP

3M COMPANY,

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Defendant.

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ORDER

On April 3, 2024, the Court ordered the parties to file dismissal papers or a joint status report on or before April 17, 2024. (Order, Dkt. 3). The parties did not do so. On April 24, 2024, the Court again ordered the parties to file dismissal papers or a joint status report on or before May 8, 2024. (Order, Dkt. 4). The Court’s order warned, “Failure to do so may result in dismissal of this action.” (*Id.* at 1). To date, the parties have not done so.

Federal courts have the authority to dismiss a complaint for failure to prosecute or to comply with a court order. *Link v. Wabash R. Co.*, 370 U.S. 626, 633 (1962); Fed. R. Civ. P. 41(b) (permitting a court to dismiss an action if the plaintiff “fails to prosecute or to comply with . . . a court order”). “A district court may dismiss *sua sponte*, with or without notice to the parties.” *Rogers v. Kroger Co.*, 669 F.2d 317, 319 (5th Cir. 1982).

This action was filed over three years ago, and there has been no action in the case since the complaint was filed. (Dkt. 2). It appears that this member case of lead Case No. 6:19-cv-19-ADA-JCM may not have been transferred to the Northern District of Florida as part of the 3M Combat Arms Earplug Products Liability Multidistrict Litigation. (*See* Case No. 6:19-cv-19-ADA-JCM, Transfer Order, Dkt. 6 (transferring Case No. 6:19-cv-19-ADA-JCM but not Case No. 1:21-CV-384-RP)). The parties have failed to comply with two orders, the last of which provided Plaintiff

with notice that the Court was considering dismissal of the case for want of prosecution. (Orders, Dkts. 3 and 4). Accordingly, the Court finds that there is a clear record of inaction and nonresponsiveness that would justify dismissal of this action for want of prosecution. *See Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998) (district courts may dismiss cases for want of prosecution or failure to comply with a court order).

Accordingly, **IT IS ORDERED** that Plaintiff's claims against Defendant in this action are **DISMISSED WITHOUT PREJUDICE**.

SIGNED on May 9, 2024.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE